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IN THE MONTANA SUPREME COURT

Cause No. DA 15-0313

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| Angela Townsend, | |
| Petitioner and Appellee, | |
| v. | |
| Ron Glick, | |
| Respondent and Appellant. | |

**PETITION FOR REHEARING AND REHEARING *EN BANC***

INTRODUCTION

This petition for rehearing and rehearing *en banc* should be granted because the Panel's decision – in spite of its claim to the contrary – transgresses upon protections secured under the United States Constitution and Montana State Constitution, specifically related to equal protection under the law, freedom of speech and human dignity. It additionally applies unique and specific penalties upon one sole individual – Appellant – and specifically directs that the decisions made against Appellant remain solely against him, as the matter is uncitable as precedent, in effect rendering an

application of judgment against Appellant that no other citizen in the State of Montana may be held to, inferring a very deliberate and specific level of bias and prejudice against Appellant.

This Panel's decision – as has been a consistent practice of this court against Appellant – is not in defense of law or justice, but instead an abuse of power. Appellant is and has openly identified himself as a political prisoner, detained as a dissident under falsely manufactured charges for the express purpose of penalizing him for filing suit against the City of Kalispell and threatening to bring further suit against Flathead County, who acted as agents of the State of Montana. This Court's consistent decisions not only fly in the face of all aspects of law – most representing unique suppression of civil rights that are in decisions memorandum opinions that effectively apply the Court's actions against Appellant alone – but are uniquely designed to oppress and keep Appellant detained as a political prisoner in Montana in order to undermine the integrity of his claims against state entities and officials. The opinion issued by this Panel is no different.

The deprivation of Appellant's civil liberties by this Court represent a consistent abuse of power against a disfavored individual who seeks to expose the corruption of officials such as those seated on this Court, and is represented yet again by its modus operandi of applying its rulings *solely* against Appellant and not making the decisions usable as precedent against any other citizen of the State of Montana. However, in this instance, the abuse is not only flagrant, it flies in the face now of even the federal constitution.

To be specific, the law is very specific in this instance. Appellee sought protection against stalking; the district court clearly determined that Appellee's claims were unproven. The district court determined that no personal relationship existed between the parties, yet imposed a civil no contact order against Appellant that is *only* applicable to protect individuals in domestic relationships. And the district court imposed restrictions on Appellant's free speech that had absolutely *no* relationship to threats, intimidation nor potential risk of harm to Appellee. In effect, the district court clearly acted in direct opposition to Montana law and denied Appellant equal protection thereunder, since there was no cause for the relief requested, had no foundation to impose a restriction against Appellant that was limited under law to domestic relationships, and imposed an injunction against Appellant's use of Appellee's name and the disputed trademark – all without imposing a single limitation upon Appellee.

The district court determined that the *parties* should have no contact, but applied civil liberty restrictions upon Appellant alone after making a clear and deliberate determination that Appellee had failed to prove that Appellant had done a single act alleged. Further, as the order was imposed against Appellant alone, it was clearly an unequal application of the district court's claim of imposing an order to separate the Parties *collectively*, ie, Appellee could have used Appellant's name, parked outside Appellant's home, harassed him or his friends, or taken any number of malicious acts without penalty, while Appellant was bound under restrictions of where he could go or frequent, even what he could say. The was obviously an order heavily steeped in

prejudice which this Panel has chosen to ignore – not because of the proper aspects of law, but instead whom the abuse was directed against – Appellant.

It was evident in the order of the district court, and since then even more evidence of the district court's seated judge, Robert Allison's, prejudicial disposition against Appellant has come to light (see Affidavit In Support of Motion To Recuse, attached hereafter as Exhibit A). Yet in spite of this additional information that only solidifies the blatant bias of the district court against Appellant, the subject matter of the lower court should have been abundantly clear – Appellant had his civil liberties stripped from him without cause, and this Court acted to defend that inescapable travesty of justice, all to preserve the illusion of integrity within the corrupt Montana judicial system.

Still further, the Court seeks to declare as factual that the trademark claim in federal court is final and settled, when in fact it is still a matter pending in the Ninth Circuit Court of Appeals, with the sole brief due by January 4, 2016. To imply that Appellant's right to appeal is irrelevant and to conclude that Appellant has no claim to the disputed trademark based solely upon the decision of the United States District Court before all due process remedies are exhausted is a blatant deprivation of that very due process. This Court cannot adopt a federal mandate that is not final as a point of well-settled law without openly declaring that Appellant has no right to fair hearing on appeal. Unless this Court seeks to affirm such a conclusion, this principle cannot be adopted as determinative.

As to the issue of transcripts, Appellant reminds the Court that the law compels upon

the appellant in an action with the responsibility for making a request for transcripts to the district court clerk. Appellant, having no funds to afford such a cost of such production, filed a motion to have the district court provide such transcripts specifically for the purpose of seeking an appeal, thereby complying with the appellate mandate to make request for the records. However, this all entirely relies upon Appellant being granted his constitutional access to court and no obstruction of justice occurring in the interim. As set forth within Appellant's pleadings, Appellee sought and obtained from the lower court an extension of time allegedly upon constitutional grounds for which to file an objection thereto, and obtained a date that was deliberately *beyond* the lawful allowable time to file appeal upon the lower court's initial order.

This Panel's provision that Appellant's efforts to obtain the transcripts of this cause without the finances to pay for their production is a deliberate obstruction to Appellant's constitutional right of access to the courts and due process. The

Finally, the Court seeks to explain away the content of a privileged communication between Appellant and Scott Anderson, while ignoring the most basic premise involved: the communication was privileged *first,* not *after* the contents of the communication were examined. Additionally, the Court ignores that the submitted letter was actually part of a *chain* of privileged communications, not an isolated letter – and taken out of context, Appellant could not defend against it without voluntarily *surrendering* his right to privileged communications with his counsel of record, ie, by submitting the full chain of communications of which the letters submitted by Anderson as evidence were a part

of.

Irregardless, the Court has no right to place the cart before the horse in this instance. It is irrefutable that Anderson submitted a communication between himself and a client – in this instance Appellant – as evidence against his former client *without* a waiver of Appellant's attorney-client privilege. Regardless of whether this Court after-the-fact considers the letter harmless, it is undeniable that Anderson ***broke the law*** to provide the letter to Appellee to submit as evidence against Appellant in the first place. As an attorney licensed to practice law in the State of Montana, Scott Anderson was bound by the Montana Rules of Professional Conduct which specifically prohibits such a transgression. And yet, this Court seeks to defend such gross misconduct, again not because it is lawful, but because it causes harm to no one else but Appellant.

This is not the first time this Court has acted in defense of Scott Anderson's abuse in this specific case, either. The Court sheltered Anderson from consequence for obstruction of due process and contempt when Anderson deliberately mailed service to a false address in an effort to prevent Appellant's learning of his fraud upon the district court through misrepresenting the contents of this Court's own record – specifically that Anderson *deliberately* filed motion in the district court alleging that Appellant had committed perjury by making a false claim to having initiated this very proceeding, when in fact Appellant had filed a Notice of Appeal and that a docket had been opened.

All of this represents a very specific and direct deprivation of human dignity to Appellant, and Appellant alone. What this Court's decision in effect says is that *any*

crime or deprivation of civil liberty can be committed against Appellant, regardless how repellent, and the perpetrator's felonious conduct shall be defended by this Court – because of *who* Appellant is. And the Court will make certain that each such gross deprivation of human dignity is limited to be applicable solely against Appellant by making each decision to not be citable nor serve as precedent to be used against any other person.

All in all, this Court has gone to extraordinary measure to suppress the information Appellant has sought to expose and to shelter *anyone* who takes actions against Appellant, regardless how criminal. The Court clearly has no qualms in acting outside the law – constitutional or otherwise – to make certain that Appellant is denied any reasonable recognition or dignity under law. Though Appellant in no way seeks to say that this Court is motivated by a grudge against Appellant specifically, it is abundantly clear that it has no reservations about sacrificing the civil rights of one individual to protect the existence of an entrenched corruption that the Court's seated members are clearly party to.

No other decision in all of this Court's long abuse of Appellant has been as clear in deliberate malfeasance by this Court than the judgment of this Panel in this case, and its clear and deliberate violation of the First Amendment to the United States Constitution has already drawn national criticism.[1] And the further this Court falls down this specific rabbit hole, the more attention it is likely to attract.

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1 See Washington Post December 2, 2015, article:
http://dailyreadlist.com/article/ron-glick-shall-not-utilize-the-name-angela-j-to-27

Consequently, it is inherent for the preservation of the questions of constitutional law presented herein that this motion for rehearing be granted.

## DISCUSSION

There is a "fundamental constututional gurantee" of right of access to the Courts secured by the First Amendment to the Consititution (*Bounds v. Smith*, 430 U.S. 817 (1977)). For a court to obstruct access to court is considered an administrative obstruction of justice, and is prohibitted by the constitutional mandate for right of access. The constitutional right to proceed without payment of fees by a poor person, also known as in forma pauperis, is founded upon and compelled upon the states by the equal protection and due process clauses of the Fourteenth Amendment to the United States Constitution. In effect, if a party's financial inability to afford court costs would deprive him of his equal protection or due process rights, fees must be waived.

MCA § 25-10-404 clearly states its effect in law within its title: "Poor persons not required to prepay fees". Poor is a determinate term referring to one's financial income, specifically as it relates to whether one is indigent. Though there is no specific test by which "poor" may be measured under Montana law, there is a test by which indigency is determined pursuant to MCA § 47-1-111(3), or more specifically if an individual's income is less that 133% of the poverty level as defined by the federal poverty guidelines set periodically in the Federal Register. As of September 3, 2015, the most recent update to said guidelines available through the U.S. Department of Health and

Human Resources, the poverty guideline is $11,770.00, making the Montana determinative income for calculation of indigence to be $15,654,10. With Claimant's sole source of income being monthly support payments of $733.00, this makes his annual income to be $8,796.00 – 56% of the indigent threshold set by Montana law.

This being said, MCA § 25-10-404 provides specifically that the waiver applies to *all* fees associated with prosecuting a claim through any court in the state, with the sole exception for copies being made of documents already within the court's file or for the cost of filing a pleading by fascimile or email. Transcripts are not in the excluded categories, and consequently, should have rightly have been reproduced based on Appellant's declared indigency, save only for Appellee's obstructions and the court's allowance of delay alone, not for fault of Appellant to comply.

In specific, the law only requires Appellant to make a request – he is not responsible for obstruction of justice by other parties. Faced with the choice of permitting the lower court to deliberately delay appeal by extending the period related to his request beyond the date for filing a notice of appeal constitutes administrative obstruction of justice by the lower court, and it does not reflect the good cause demonstrated by Appellant in seeking to comply with this Court's rules.

The Fourteenth Amendment to the United States Constitution reads in relevant part, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; *nor deny to any person within its*

*jurisdiction the equal protection of the laws*" (emphasis added). In effect, all citizens of the United States are entitled to the same treatment and protection of the law as any other. This specific clause is so far reaching, that it prohibits everything from class descrimination, to the imposition of penalty against *any* individual solely based upon that person's identity.

In Montana, the protection provided extends even to human dignity. The Montana Constitution, Article II, Section 4 states, in relevant part, "The dignity of the human being is inviolable. No person shall be denied the equal protection of the laws. Neither the state nor any person, firm, corporation, or institution shall discriminate against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas."

In this instance, the equal protection and human dignity clauses of both constitutions are grossly disregarded. Where a district court made specific determination that a petitioner had failed in her burden to prove any wrongdoing by the respondent, a district court could not decide – by virtue of its disfavor towards the respondent – to strike the respondent's civil liberties. Where the same court determined that *both* Parties should stay away from each other, it had *no* power to enforce any restrictions upon either party since neither party was found to have committed a legally grievable offense, much less impose penalties and restrictions *solely* against the respondent. And such a court could not then execute an injunction that had *absolutely no relationship* to the subject matter of the proceeding against one party and not the other. Equal protection *requires* equal

application of law – and in this cause, it is inescapable that the *only* action of the lower court was directed solely against one party – the Appellant.

Where a court finds no fault by a party, it cannot then impose penalty upon such a party without violating the constitutionally protected privileges of such a party. A court could not find a person innocent of murder, yet still order his execution – likewise, a court cannot find a party innocent of any constitutionally prohibitted conduct, and then strip him of his rights regardless. Without question, Appellant's rights under the equal protection clauses of the state and federal constitution were violated, and this Panel has committed a gross violation of its own constitutional mandate in upholding the deprivations.

Further, that all of this was done by virtue of Appellant's *identity,* ie, who Appellant is as a political prisoner of the State of Montana, is immesaurably violative of human dignity. No individual should be treated as sub-human – without rights nor recognition of his identity nor dignity under law. And yet, that is precisely what the State of Montana has maintained against Appellant for a dozen years – by detaining him as a political prisoner, then using this Court to whitewash the deprovation of human dignity cast down upon him. Appellant is entitled to equal protection of the law, not to have the entire State of Montana committed to his disgrace so that their own criminal misconduct can be overlooked. The officials of Flathead County set out with one goal in mind a dozen years ago – to discredit Appellant in such a way that no one would believe his claims against them. And now the State and this Court as an arm thereof – has dedicated

itself to preserving this status quo, and has willingly sacrificed Appellants human dignity so as to keep things as they are. The State of Montana and this Court have kept Appellant as a political prisoner for one purpose: to protect themselves from the information Appellant has.

The State has proven that the only thing needed to hide a political prisoner is to brand him as a sex offender – because then no one will listen to anything unrelated to the actual label. And this Court – headed by the very former state attorney general who initially defended the state's misconduct, Mike McGrath – has only gladly followed suit. But the Court has no authority to continue to deprive Appellant of his human dignity by allowing anyone to steal and deprive him of his rights just to silence and detain him, yet the Panel's decision provides for precisely this.

The First Amendment to the United States Constitution reads in relevant part, "Congress shall make no law... abridging the freedom of speech..." The Fourteenth Amendment to the United States Constitution reads in relevant part, "[N]or shall any State deprive any person of life, liberty, or property, without due process of law . . ." Also known as the Incorporation Doctrine, this latter language prohibits states from violating the federal rights of its citizens (*Gitlow v. New Yor*k, 268 U.S. 652 (1925)), including obstructing free speech. The Montana Constitution, Article II, Section 7 reads, in relevant part, "Every person shall be free to speak or publish whatever he will on any subject, being responsible for all abuse of that liberty." The only allowable exceptions to freedom of speech are encompassed under what is commonly known as the "harm

principle", which is to say, that speech can only be restricted to prevent harm to others.

Imposition of the injunction by the lower court – specifically the prohibition against use of Appellee's name or the use of the disputed trademark by Appellant *alone* (notably, Appellant is actually even forbidden by the strictures of the lower court's order to use such names in his own defense herein without incurring penalty) had absolutely no relationship to any perceived nor proven harm to Appellee. Appellee never demonstrated that Appellant's use of her name nor the disputed trademark online caused her fear of harm, nor did the lower court make any effort to imply that it did. The lower court simply imposed the penalty, which abridged Appellant's freedom of expression and speech secured under the state and federal constitutions without any cause whatsoever othr than Appellee *wanted* it.

Worse, it endorsed the willful theft of Appellant's intellectual property and the misappropriation by Appellee. It permitted Appellee to continue to solicit funds to support her movie project utilizing the disputed trademark, while forbidding Appellant from opposing its use in open market, and gave Appellee the ability to solicit the movie for sale without any opposition by Appellant. Appellee could profit significantly – and to date Appellant is aware of over three hundred thousand dollars being raised under the trademark's name by Appellee – and Appellant could do nothing to stop it, nor publicly denounce the use thereof.

Irregardless of whether the federal court eventually decided for or against Appellant's claim, it is indisputable that absolutely *no* lawful disposition as to right of use existed at

the time the lower court imposed this injunction. And as such, the lower court had no authority to intervene in a trademark dispute under the pretense of a restraining order proceeding.

Since the use of the disputed trademark only impacted Appellee's use of the disputed mark to profit therefrom, and that matter was *already pending* in federal district court, the lower court had no justifiable cause to impose any restriction upon Appellant's use of Appellee's name nor the disputed mark. The only authority the lower court had was over Appellant using either to make direct or indirect threats of harm against Appellee, but there was no conclusion by the lower court that Appellant used either Appellee's name nor the disputed mark to imply or make any kind of threat which could place Appellee in fear of harm, or trigger the harm principle's protections. Therefore, the only congnizant purpose the lower court could have for imposing such a restriction upon Appellant would have been to deprive Appellant's right to protect his intellectual property from Appellee's profiting from its misappropriation – which had absolutely *nothing* to do with whether Appellant was allegedly engaged in unconstitutionally protected conduct designed to instill fear of harm to Appellee.

The conclusions specifically expressed by the lower court could not have justified the issuance of *any* order against Appellant – there were no findings of wrongdoing against Appellant. Presumably, if the lower court felt a need to keep the Parties separated – as the Panel herein has implied was its rightful authority to do – it could have imposed a mutually binding injunction against *both* Parties, but that is not what it did. It imposed a

restrictive order against Appellant alone, violating his rights to equal protection under the law, to his freedom of speech and to human dignity.

This Court only transgressed further by upholding the gross violations of both state and federal constitutional rights presumably for no other reason than Appellant's identity – for with decisions so abhorrent to both constitutions, the Court's choice to make these deprivations through memorandums that are barred from being cited as precedents makes their application to be against Appellant alone, and such unique deprivation limited solely to one person by virtue of his identity and protests as a political prisoner is indisputably prejudicial and violative of constitutional law.

Without doubt, the Panel's decision violates protections under both state and federal constitution, and by reason thereof, a rehearing en banc is appropriate in the interests of justice.

## CONCLUSION

For the foregoing reasons, the petition for rehearing or petition for rehearing *en banc* should be granted.

Appellant does hereby attest under penalty of perjury that the foregoing is true and correct to the best of his ability to present.

Dated: December 2, 2015

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Ron Glick

CERTIFICATE OF SERVICE

I do hereby attest under penalty of perjury that a true and correct copy of the forgoing Document was deposited in the US Mail, postage prepaid, and addressed as follows:

Paul A Sandry
PO Box 3038
Kalispell, MT 59903-3038

Dated this 2nd day of December, 2015

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Ron Glick, Appellant